

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket Nos. 2015-077-00665R-00669R

Parcel Nos. 312/00640-003-000; 312/00640-004-000;

312/00640-005-000; 312/00640-006-000; 312/00640-007-000

6501 Urbandale Avenue Duplexes, LLC,

Appellant,

v.

Polk County Board of Review,

Appellee.

Introduction

These appeals came on for hearing before the Property Assessment Appeal Board (PAAB) on September 26, 2016. Phil Akason, Property Manager with Terrus Real Estate, represented 6501 Urbandale Avenue Duplexes, LLC (Urbandale Avenue). Assistant Polk County Attorney Mark Taylor represented the Polk County Board of Review.

Urbandale Avenue is the owner of five adjoining residential parcels located at 6501 Urbandale Avenue improved with ten duplexes. Each duplex has 1824 square-feet of gross living area (GLA) and a full basement; of which nine of the duplexes accommodate a two-car basement garage. The following table summarizes each parcel and its January 1, 2015, assessment.

Docket	Parcel	Site Size (Acres)	Improvements	Year Built	Assessed Site Value	Assessed Improvement Value	Total Assessed Value
00665R	312/00640-003-000	0.305	1 Duplex	1966	\$42,200	\$99,400	\$141,600
00666R	312/00640-004-000	0.280	1 Duplex	1967	\$41,200	\$99,400	\$140,600
00667R	312/00640-005-000	0.398	1 Duplex	1965	\$45,800	\$96,700	\$142,500
00668R	312/00640-006-000	1.764	7 Duplexes	1964/65	\$156,700	\$748,400	\$905,100
00669R	312/00640-007-000	0.863	Unimproved	N/A	\$46,100	\$0	\$46,100
Total					\$332,000	\$1,043,900	\$1,375,900

Urbandale Avenue protested to the Board of Review and claimed the properties were assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b).

The Board of Review denied the petitions. Urbandale Avenue then appealed to PAAB, claiming the parcels are over-assessed and the correct total value is \$1,300,000.

Applicable Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to

determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2).

Urbandale Ave has asserted the subject property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b). In an appeal alleging the property is assessed for more than the value authorized by law, the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Findings of Fact

Urbandale Avenue purchased the five subject parcels in a single transaction for \$1,300,000 in October 2014. (Ex. 1). Phil Akason, Property Manager for Terrus Real Estate, testified for Urbandale Avenue. Akason reported the transaction process began in May 2014 and included offers and counteroffers prior to the acceptance of the \$1,300,000 sale price. Akason testified the sale price included \$20,000 in roof repairs, painting, and repairs to a storm sewer intake. Additionally \$24,000 was held in escrow due to some potential radon concerns. In Akason's opinion, the back and forth of negotiations demonstrates the transaction was arm's length. For this reason, he asserts the total assessed value of the five parcels should be no more than the \$1,300,000 purchase price.

Akason also explained that in March 2014, the prior owner had an appraisal completed for refinance purposes. The appraisal was completed by Randal Meiners of Valuation Resources, Inc., Pleasant Hill, Iowa. (Ex B). Meiners valued the five parcels as a single operating unit; he opined a fee simple market value of \$1,420,000.

Akason testified that rather than ordering a new appraisal, Urbandale Avenue's lender, Lincoln Savings Bank, chose to rely on Meiners' appraisal for the October 2014 purchase. Lincoln Savings Bank chose to mortgage the property based on the appraised value rather than the purchase price, which afforded Urbandale Avenue additional flexibility with its loan.

Lastly, Akason does not believe the Board of Review should have relied on a gross rent multiplier (GRM) in arriving at a conclusion of value. Akason notes that the subject development is uniquely situated with a private street and excess land. As a result, it requires additional property management costs, which a GRM analysis would not adequately consider. We note Meiners' income approach included \$7500 for variable maintenance expenses based, in part, on the subjects' past operating history, which would include snow, trash removal, and ground maintenance.

In his income approach to value, Meiners concluded a market rent for the subject properties of \$780 per month and utilized that figure in calculating the subjects' gross potential income. (Ex. B, p. 35). His appraisal indicates that at the time of the appraisal, the subject properties were commanding, at least in part, below market rents. (Ex. B, p. 25). Akason testified that in November 2014, most of the subjects' units were renting for \$780 per month.

When questioned by the Board of Review about how Urbandale Avenue determined what it believed to be the subject properties' correct values, Akason explained he simply allocated the \$1,300,000 purchase price across the five parcels. The following table summarizes what he believes to be the correct 2015 assessments. (Ex. 3).

Docket	Parcel	Site Value	Improvement Value	Total Value
00665R	312/00640-003-000	\$39,600	\$99,174	\$138,774
00666R	312/00640-004-000	\$38,600	\$99,174	\$137,774
00667R	312/00640-005-000	\$42,900	\$99,174	\$142,074
00668R	312/00640-006-000	\$146,800	\$694,218	\$841,018
00669R	312/00640-007-000	\$40,360	\$0	\$40,360
	Total	\$308,260	\$991,740	\$1,300,000

Akason also asserts the unimproved subject parcel 312/00640-007-000 is not a buildable site. However, Amy Rasmussen, Director of Litigation for the Polk County Assessor's Office, testified for the Board of Review that she verified with the City of Urbandale that the site was, in fact, able to be improved.

The Board of Review relied on a sales comparison analysis for each of the subject parcels. (Certified Records). The following table is a summary of those conclusions.

Docket	Parcel	Indicated Value by Sales Comparison Approach	Indicated Value by Cost Approach
00665R	312/00640-003-000	\$146,700	\$141,600
00666R	312/00640-004-000	\$146,000	\$140,600
00667R	312/00640-005-000	\$149,700	\$142,500
00668R	312/00640-006-000	\$1,090,300	\$905,100
00669R	312/00640-007-000	Undeveloped	\$46,100

In Rasmussen's opinion, the sale comparison analysis for the subject parcel 312/00640-006-000 is not reliable because it has multiple duplex structures on that site and was compared to sales with only one. Ultimately, the Board of Review relied on the cost approach to value all of the subject parcels.

Rasmussen noted the subjects' sale price is for an assemblage of several parcels operating as a unit. She also noted Meiners considered this in his appraisal, adjusting his sales comparison approach downward by 10% to reflect the limited number of potential purchasers for a bulk sale. (Ex. B, P. 55-56).

Rasmussen explained that because the subject properties consist of five individual parcels but operate as a single investment unit, the owner could make a request to the Auditor's office to have the properties combined into a single parcel. By doing so, it is possible the total assessed value could change downward in subsequent assessment years.

Analysis & Conclusions of Law

Urbandale Avenue seeks a reduction in the assessment of these properties based on the October 2014 sale price of \$1,300,000. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value under Iowa law. § 441.21(1)(b). However, a sale of the subject property does not

conclusively establish its market value for assessment purposes. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996).

Here, we find the sale price does not represent the market value of the subject parcels under Iowa Code section 441.21(1)(b). First, at the time of purchase and as of January 1, 2015, at least a portion of the subject properties were separately parceled and freely alienable. However, the \$1,300,000 purchase price is a representation of the assemblage. Although not specifically noted as abnormal in Iowa Code section 441.21, this type of sale would not be used by the Assessor's Office for equalization purposes. Iowa Dep't of Revenue, Sales Condition Codes, *available at* <https://tax.iowa.gov/sites/files/idr/documents/Sales%20Condition%20Codes.pdf> (last visited Oct. 25, 2016). Recognizing this as an assemblage purchase, Meiners made a 10% negative adjustment in his sales comparison approach to account for the smaller pool of potential buyers. Further, although Urbandale Avenue attempted to allocate the sale price to the respective parcels, this was not done using a recognized appraisal methodology. No attempt was made to check the allocations against similarly situated property sales. Ultimately, we are concerned the sale price does not represent the properties as they currently sit and are to be valued under Iowa law – as separately parceled and freely alienable properties.

Second, we question whether the sale itself represents the subjects' fee simple value as required by law. *Oberstein v. Adair County Bd. of Review*, 318 N.W.2d 817 (Iowa 1982). Meiners indicates that at the time of appraisal in March 2014 the subject properties were commanding below-market rents. Per Akason's testimony, the percentage of below-market leases may have been reduced between the time of the appraisal and the purchase. Akason also testified, however, that there were still some below market leases in-place at the time of purchase. Without more information, we are concerned the assemblage sale price may actually represent a leased-fee valuation of the subject parcels.

The other evidence in the record of the subjects' value – namely Meiners' appraisal – supports the assessment. Although Meiners valued the property as an assemblage, he applied a discount in his sales comparison approach to account for this

factor. Both his fee simple (\$1,420,000) and leased fee (\$1,385,000) valuations of the subject came in above the \$1,300,000 sale price and the properties' combined 2015 assessment of \$1,375,900.

We note Urbandale Avenue may wish to contact the Auditor's office or have discussions with the Assessor's Office about the potential benefits of combining the five parcels into a single parcel.

Based on the foregoing, we find Urbandale Avenue has not shown the subject properties are assessed for more than the value authorized by law.

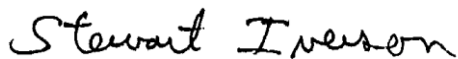
Order

Having concluded that Urbandale Avenue has not shown its properties are over-assessed, PAAB ORDERS that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

Copies to:

Phil Akason by eFile

Mark Taylor by eFile